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Job Opportunity Building Zone (JOBZ) Program
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Job Opportunity Building Zone (JOBZ) Program Changes & Clarifications

In February 2008, the Office of the Legislative Auditor (OLA) reported on its evaluation of the JOBZ Program. The OLA found "...significant problems with the program's design and implementation, resulting in some cases of ineffective and inappropriate use of tax subsidies." In response, the Department of Employment & Economic Development (DEED) agreed that significant changes needed to be made to increase state oversight and accountability for program performance.

The changes summarized below are intended to achieve these improvements and also to respond to statutory changes made during the 2008 Legislative session.

Overall these amendments provide DEED, the Department of Revenue, and the State Auditor with increased JOBZ compliance responsibilities. JOBZ statutes provide that the commissioner's actions in establishing program procedures and requirements are not subject to the Administrative Procedures Act and are published here in order to implement these changes. This notice also restates or clarifies a number of existing aspects of the program and its administration.

Overview

1. All new applications for JOBZ participation will be reviewed and approved/disapproved by DEED. As a result, a new application form has been developed for use by local governments and/or subzone administrators.
2. DEED has developed a new evaluation process to determine if a proposed project is beneficial for the state and local area and may receive JOBZ tax benefits. Not every project may qualify for the JOBZ program. DEED will consider:

If there are other types of public support that are more appropriate to the particular project;

If the project would cause undue economic harm to another Minnesota-based business serving the same market;

If the project would achieve a positive economic benefit for the state;

Whether the project strengthens the community;

The ratio of the project's estimated net benefit to its costs;

The location of the project in an economically distressed area;

The number of jobs created; and

Wages paid in the JOBZone.

3. All Business Subsidy Agreements (BSA) must be on a form prescribed by DEED.

Any goals listed or changes to the BSA must be approved by DEED prior to execution of the BSA. The local government may not modify the BSA, except as allowed under M.S. Section 469.3191.

4. The BSA will include definitions of two key terms for the purpose of the JOBZ program:

Employment/Employee – For the purpose of determining compliance with wage and jobs goals, only those jobs that constitute “employment” for the purpose of Minnesota unemployment insurance will be counted as “jobs”. However, student workers, interns, etc. are not considered “employees” of the business. This means they will not be subject to the minimum wage requirements of the JOBZ program and will not be counted toward achieving job goals.

Full-time employment or FTE – “Full-time employment” or “FTE” means one job or a combination of jobs that will produce annualized cumulative expected hours of work, not including overtime, equal to 2,080 hours. To qualify, the job must pay Social Security and Worker’s Compensation, and employees must be direct employees of the qualified JOBZ business. A FTE job may be seasonal as long as the required number of FTE jobs are created and maintained for each calendar year.

5. Businesses new to the JOBZ program will be required to report on the numbers of jobs created and wages paid two years after their JOBZ Benefit Date. Businesses that are relocating their operations into a JOB Zone must report on jobs and wages one year after their JOBZ Benefit Date. For most projects, the JOBZ benefit date will be the date of final signature on the BSA. Businesses also have the option of electing to use the benefit date definition from the business subsidy statute listed below. These “Anniversary” reports are separate from the normally required Minnesota Business Assistance Form (MBAF) that must continue to be sent to DEED by April 1 for the preceding calendar year.

In the business subsidy law (Minn. Stat. §116J.993, Subd. 2), the term “Benefit Date” is defined as the date the business receives a business subsidy. If the subsidy or project involves the acquisition of physical equipment, the benefit date begins when the business puts the equipment into service. If the subsidy or project involves improvement to property, the date begins on the earliest date of either: 1) when all the improvements are completed or 2) when the business occupies the property. Local governments must inform DEED of the project’s “benefit date” if they intend to use a date other than the date of final signature on the BSA.

6. Businesses that enter the JOBZ program and do not meet the goals specified in their BSA but that perform a substantial level of activities described in the BSA will be allowed to remain in the JOBZ program if DEED, the local government, and the business mutually agree on a new set of goals. However, the duration of their job zone will be shortened proportionately by the degree to which they attained their

original goals. This is a one-time reduction. Businesses failing to meet their revised goals will be found out of compliance and will be terminated from the Program.

7. As a matter of clarification, all businesses which sign a BSA after July 1, 2005 are required to pay all employees (see the description in paragraph 4 above) working within a JOB Zone total compensation, including benefits not mandated by law, that is equal to at least 110% of the federal poverty level for a family of four (Minnesota Statute 469.310, Subd. 11(g)). This wage requirement changes every year, with adjustments effective each July 1. DEED will inform the communities and the businesses of the new wage goals.

The total compensation includes base wages, but also benefits not mandated by law. Mandated benefits include items such as Social Security, Medicare, unemployment insurance, etc. Benefits that are not mandated include health or dental insurance, life insurance, paid uniforms, vacation, overtime, and bonus income. The annualized value of these benefits can be included in the base wage paid to determine total compensation.

JOBZ Application Process

A JOBZ Application must be approved by DEED prior to executing a business subsidy agreement. Subzone administrators or the appropriate local government are required to complete the JOBZ Application. The new JOBZ Application has been created by the department and is available on the JOBZ website, <http://www.deed.state.mn.us/bizdev/jobz.htm>

The Application includes the following elements:

Project Information such as the nature of the business, the financing package, the number of jobs created and wages paid;

A completed JOBZ Benefit Calculator, including the information put into the Calculator as well as the results;

A statement will be required from the business that it would not have located, relocated, or expanded in Minnesota without the benefits provided under JOBZ;

Verification that the business will abide by the requirements for E-Verify.

The current “Mandatory Data Form,” the “JOBZ Project Evaluator,” and the “JOBZ Business Survey” will be discontinued and/or combined into the application.

Once received, the application will be evaluated and scored using the criteria noted below. DEED’s process for reviewing JOBZ applications will include two basic steps. In the first step we will consider three factors:

Does the project need JOBZ? This will include a determination by DEED that, based on information provided by the subzone administrator, other types of assistance would be a more appropriate form of public assistance. For Example, certain types of businesses, especially in the service sector, may receive a better level of assistance through tax increment financing (TIF), tax abatement, or business loans.

Would the project cause undue harm to another business competitor? DEED will consider the effect of the project on businesses that are producing similar products or services.

Does the value to the state exceed the cost of offering JOBZ? Each project proposal will be evaluated using a nationally recognized modeling tool developed by Regional Economic Model, Inc. – also known as REMI.

Projects that do not pass these three tests will not be approved. If the project appears to pass the first three tests, DEED will then consider additional factors in scoring it.

This score would consider:

What is the cost/benefit analysis of this particular project's job creation and investment? If the REMI model produces a net positive impact, the net benefit will be divided by the cost of offering JOBZ (as measured in the foregone taxes identified in the JOBZ Benefit Calculator's results), to arrive at a ratio of benefit to cost. Those projects with a higher ratio will receive a higher number of points.

Does the project strengthen the community? DEED will consider how the business will increase the community's economic vitality. The factors considered will include the impact on local employment and the level of wages paid.

To what degree is the project in a distressed county? Although DEED is not limiting JOBZ to the most distressed counties, it does intend to award greater number of

points to those projects in more distressed counties, as measured by population loss, higher than statewide average unemployment rate, and lower than statewide median household income.

DEED intends to only approve projects that are beneficial for the state and local areas. DEED believes that using the factors described above will allow it to qualify projects using quantitative and verifiable factors that are important to the Minnesota Legislature. For example, a project with a good cost/benefit ratio reflects a positive return on the state's investment. However, if it is located in a more prosperous county, it may require a sizable number of new jobs in order to qualify for JOBZ. Conversely, a project with a smaller number of jobs, or perhaps a smaller (but still positive) cost/benefit ratio may qualify if it is located in a more distressed county.

In the case of a zone modification, an administrator must follow a similar procedure. DEED will evaluate the proposed modification based on the criteria described previously. If DEED approves the application, DEED will draft the business subsidy agreement. The subzone administrator will be instructed to complete and execute the business subsidy agreement, with DEED as the final signature. In the case of a proposed JOBZ relocation, DEED will consider the proposed project, and if approved, complete a JOBZ Relocation Agreement.

Reporting/Compliance

As noted above, businesses participating in the JOBZ program are required to report on their performance goals. DEED and program auditors will begin to periodically cross-check and verify the accuracy of information provided directly by the business.

Newly executed BSA's will be monitored by DEED staff during the first 2-year period in addition to the report noted above. This additional reporting will consist of checking job creation on the anniversary date of the BSA. Site visits may be conducted by DEED staff to assure job creation goals are met.

Businesses that fail to submit the required annual reporting form may be terminated from the program.

Businesses that do not meet the goals specified in the BSA may:

Be terminated from the program;

Receive a 1-year extension to attain the goals (DEED must concur they will be able to achieve the goal within 1 year); or

Have the duration of their participation reduced if they have not fully achieved their goals, but perform a substantial level of activities described in the BSA.

Reporting Dates

The following reports/certifications are required for the JOBZ program:

April 1

JOBZ Minnesota Business Assistance Forms (JOBZ MBAF) to be filed with DEED for the preceding calendar year. The report includes a listing of all employees showing job title, wages paid and benefits.

June 1

Zone administrators must continue to file reports with DEED that report on performance of the overall [10] zones. (existing requirement)

October 15

M500 Form is required by Dept. of Revenue. This shows a report of the tax benefits taken for the previous year (filing this form was previously optional, but is now required).

December 1

Business must certify to Dept. of Revenue that the business is in full compliance with all JOBZ regulations. (new requirement)

Operation Anniversary

New or expanding businesses must report to DEED on the numbers of jobs created and wages paid on the second anniversary of *their “benefit date”*. Relocating business must report at the end of their first year of operations. This will be a one-time reporting requirement.